

# ***Committees***

## **A. CREATING AND ORGANIZING COMMITTEES**

### **§ 1. In General**

There are three types of committees that are common to the House—(1) standing committees, (2) special or select committees, and (3) joint committees. Standing committees which are usually, though not necessarily, established by amending the rules of the House, comprise the largest group. The jurisdiction of standing committees<sup>(1)</sup> is usually set out in the rules<sup>(2)</sup> and the Speaker refers<sup>(3)</sup> measures or matters to them pursuant to those provisions. Members of standing committees are elected and serve through the Congress for which elected. Special or select commit-

tees are established by a resolution setting forth the particular jurisdiction and the method of selection for membership.<sup>(4)</sup> Normally the Speaker appoints special or select committees, and they expire with their report or at the end of the Congress or as otherwise provided.<sup>(5)</sup> Joint committees are established by an act of Congress or concurrent resolution<sup>(6)</sup> which sets forth the particular subject matter of concern to both Houses.

The reader should note that citations to Rule X and Rule XI contained in the precedents sometimes referred to older sections of Rule X and Rule XI. Those rules were rewritten and redesignated by the adoption of House Resolution 988, the Committee Reform Amendments of 1974.

1. See §2.1, *infra*. See also §§30–51, 53, *infra*.

2. In 1973, for example, the jurisdiction of the standing committees was set forth in Rule XI. See Rule XI clauses 1–22, *House Rules and Manual* §§677–725 (1973). The Committee Reform Amendments of 1974, H. Res. 988, 93d Cong. 2d Sess., transferred the jurisdiction of the standing committees to Rule X, effective Jan. 3, 1975.

3. See §27, *infra*.

4. See §5.2, *infra*, for example. As to subjects of investigation by select or special committees, and the distinction between such committees, see §6, *infra*.

5. See §5.5, *infra*, for an instance in which a select committee was reconstituted and given an express calendar day limitation on the filing of its final report.

6. See §7, *infra*.

***Select Committee to Study House Committee System***

**§ 1.1 The House considered under a special rule and agreed to a resolution reported from the Committee on Rules, creating a select committee to study House committee jurisdiction, staffing, procedures and facilities and to report to the House. Under the resolution, committee membership and staff expenses were to be paid from the contingent fund on vouchers approved by the Speaker.**

On Jan. 31, 1973,<sup>(7)</sup> the House agreed to a resolution (H. Res. 176) reported out by the Committee on Rules which provided that upon its adoption the House would consider in the House a resolution (H. Res. 132) to create a select committee to study the operation and implementation of Rules X and XI.

The Speaker<sup>(8)</sup> then directed the Clerk to read House Resolution 132, which stated:

*Resolved*, That there is hereby created a select committee to be composed of ten Members of the House of Representatives to be appointed by the

Speaker; five from the majority party and five from the minority party, one of whom he shall designate as chairman. Any vacancy occurring in the membership of the committee shall be filled in the manner in which the original appointment was made.

The select committee is authorized and directed to conduct a thorough and complete study with respect to the operation and implementation of rules X and XI of the Rules of the House of Representatives, including committee structure of the House, the number and optimum size of committees, their jurisdiction, the number of subcommittees, committee rules and procedures, media coverage of meetings, staffing, space, equipment, and other committee facilities.

The select committee is authorized and directed to report to the House by bill, resolution, or otherwise, with respect to any matters covered by this resolution.

For the purposes of this resolution, the select committee or any subcommittee thereof is authorized to sit and act during sessions of the House and during the present Congress at such times and places whether or not the House has recessed or adjourned. The majority of the members of the committee shall constitute a quorum for the transaction of business, except that two or more shall constitute a quorum for the purpose of taking evidence.

To assist the select committee in the conduct of its study under this resolution, the committee may employ investigators, attorneys, individual consultants or organizations thereof, and clerical, stenographic, and other assist-

7. 119 CONG. REC. 2804-12, 93d Cong. 1st Sess.

8. Carl Albert (Okla.).

ants; and all expenses of the select committee, not to exceed \$1,500,000 to be available one-half to the majority and one-half to the minority, shall be paid from the contingent fund of the House on vouchers signed by the chairman of the select committee and approved by the Speaker.

Following some debate on the measure, the vote was ultimately taken by electronic device,<sup>(9)</sup> and the resolution was agreed to—yeas 282, nays 91.<sup>(10)</sup>

*Parliamentarian's Note:* The provision authorizing the Speaker to approve the committee's vouchers was intended to bypass approval by the Committee on House Administration, which is required by House rules<sup>(11)</sup> and by law.<sup>(12)</sup> House Resolution 132 was not a privileged resolution because it contained this provision paying money from the contingent fund (a matter within the jurisdiction of the Committee on House Administration). Thus the Committee on Rules reported House Resolution 176 providing for consideration of House Resolution

132 in the House (in effect a "closed" rule).

### ***Continuing Authority of Committees During Subsequent Congress***

**§ 1.2 The Senate being a "continuing body," its committees remain in existence from one Congress to the next, and may be authorized by simple resolution to conduct investigations during the subsequent Congress.**

On Dec. 31, 1970,<sup>(13)</sup> Senator Abraham Ribicoff, of Connecticut, was recognized by unanimous consent by the Presiding Officer<sup>(14)</sup> of the Senate. Senator Ribicoff submitted a resolution (S. Res. 504) which provided for the granting of authority to the Committee on Government Operations to continue its investigations, hearings, and reports on efficiency and economy in government pursuant to a previously agreed upon resolution.<sup>(15)</sup>

Pursuant to the Chair's request, the legislative clerk read Senate Resolution 504, as follows:

9. 119 CONG. REC. 2815, 93d Cong. 1st Sess.

10. *Id.* at p. 2816.

11. Rule XI clauses 9(a), 9(b), 9(c), 9(f), *House Rules and Manual* §693 (1973).

12. 2 USC §95.

13. 116 CONG. REC. 44456, 91st Cong. 2d Sess.

14. William B. Saxbe (Ohio).

15. S. Res. 308. See 116 CONG. REC. 3411, 3412, 91st Cong. 2d Sess., Feb. 16, 1970.

## RESOLUTION

Continuing for 1 month certain authority for investigations by the Committee on Government Operations into the efficiency and economy of operations of all branches of Government

*Resolved.* That the authority to make investigations conferred upon the Committee on Government Operations by Senate Resolution 308, Ninety-first Congress, agreed to February 16, 1970, together with any authority contained in section 7 of such resolution, is extended until February 28, 1971. In carrying out investigations, holding hearings, and reporting such hearings under the authority of such resolution and this resolution, the Committee on Government Operations is authorized to expend any part of the amount specified in section 8 of such Senate Resolution 308 which remains unexpended on January 31, 1970.

When the Presiding Officer asked if there were any objections to the present consideration of the resolution, Senator Jacob Javits, of New York, reserving the right to object, proceeded to ask Senator Ribicoff two questions. Although the resolution was ultimately agreed to,<sup>(16)</sup> the discussion which ensued illustrates at once the "continuing nature" of the Senate as a legislative body while underscoring Senatorial concern for those constitutional<sup>(17)</sup> safeguards

designed to prevent usurpation of power by one Congress over a succeeding Congress.

The exchange, in pertinent part, took place as follows:

MR. JAVITS: Mr. President . . . I did want to ask two questions for the Record.

One, is it assumed that this resolution will mean, aside from the continuance of the work of the committee, any change in existing law respecting whether there is any authority to extend the work, in view of the fact that we will have a new Congress?

MR. RIBICOFF: Mr. President, not at all. My understanding is that basically, until the new committees are constituted, the work of the old committee will continue. The authority of this committee to act extends until January 31, 1971. There are some investigations now currently in process on which hearings are slated to be held in January and February. There will be no need for further funds. The committee has sufficient funds in its prior authority. I do not conceive of any new authority being given to the committee.

MR. JAVITS: Mr. President, if I may make the situation clear to the Senate, will it be understood that if this resolution is considered and acted on, whatever the law provides with respect to the power to continue this authority will continue to be the law, unchanged by this resolution; and will it also be understood that this resolution represents no waiver of precedent or otherwise adversely affects the right of Senators who will be sworn in or who will continue as Senators in the new Congress to challenge the continuance

16. 116 CONG. REC. 44457, 91st Cong. 2d Sess., Dec. 31, 1970.

17. U.S. Const. art. I, §5, clause 2. See also *House Rules and Manual* §59 (1973).

of the rules of the Senate under the Constitution which provides that each body shall deal with its own rules in every new Congress.

MR. RIBICOFF: That is my understanding of the situation.

MR. JAVITS: Mr. President, I thank my colleague. I have no desire in any way to stand in the way of my own committee. However, I did not wish by allowing this resolution to go through to yield or compromise any of the rights in respect of the power of the Senate to write new rules in the new Congress.

*Parliamentarian's Note:* The Senate's status as a continuing body is, of course, directly attributable to the method by which it is constituted. "So that one-third may be chosen every second year,"<sup>(18)</sup> the Constitution divided the first group of Senators into three classes with terms of two, four, and six years; thereafter, each succeeding term was to last six years. The House, by contrast, has always been "composed of Members chosen every second year."<sup>(19)</sup> Because the Constitution provides that "each House may determine the rules of its proceedings,"<sup>(20)</sup> the committees of the House of Representatives may remain in existence only as long as the particular Congress which created them. While most of the

House's standing committees are usually reconstituted when one Congress succeeds another, all House committees spring into existence only after a new House has adopted rules or other resolutions specifically creating them anew. The House also reconstitutes select committees from time to time;<sup>(1)</sup> however, in the absence of express authority from a new House, a select committee expires with the term of the Congress in which it was created. Joint committees<sup>(2)</sup> established by statute, of course, remain in existence beyond the Congress of their creation unless otherwise provided by the House; the House members of such joint committees, however, must be appointed or elected in each new Congress.

## § 2. Establishing Standing Committees; Procedure

### *Establishing Standing Committee by Resolution*

**§ 2.1 A resolution establishing a standing committee [but not specifically amending the rules of the House] is reported and called up as privileged by the Committee on Rules.**

18. U.S. Const. art. I, § 3, clause 2.

19. U.S. Const. art. I, § 2, clause 1.

20. U.S. Const. art. I, § 5, clause 2.

1. See § 5.5, *infra*.

2. See § 7, *infra*.